REMARKS

This is in response to the non-final Office Action dated October 1, 2009. For at least the reasons noted below, Applicants submit that all pending claims are in condition for allowance.

This is the sixth action, fourth non-final office action. In response to a Preliminary Amendment filed with a Request for Continued Examination, the Examiner enters new grounds of rejection relying on an additional reference and taking official notice. Applicants submit the pending claims are in condition for allowance for at least the reasons mentioned below.

Claims 1 and 13 include an amendment reciting "wherein the at least one measure includes removing maximum and minimum figures to produce the quantitative statistic." (See, Flake, ¶[0077] - ¶[0080]). In the non-final Office Action dated October 1, 2009, the Examiner rejects claims 1 - 7 and 9 - 14 under 35 U.S.C §103(a) as being unpatentable over US Patent Publication No. 2003/0105677 ("Skinner") in view of US Patent Publication No. 2001/0051911 ("Marks") in view of US Patent Publication No. 2003/0028529 ("Cheung") and further in view of the publication entitled "Ideas Futures: Encouraging and Honest Consensus" by Hanson ("Hanson").

The rejection is improper because Cheung is not a valid prior art reference under §103(c). Chueng was originally assigned to Overture, Inc., and at the time of the filing of present application, the current application was assigned to Overture, Inc. (Subsequently, both Chueng and the present application have been assigned to Yahoo!) The earliest publication date for the Cheung reference is February 6, 2003 and the effective filing date of the current

application is July 22, 2003, rendering Cheung prior art under 35 U.S.C. §102(e) and not under 35 U.S.C. §102(b). Chueng is therefore not a valid prior art reference under §103(c).

To advance the present prosecution as expeditiously as possible, Applicants submit the below-noted substantive positions regarding the allowability of the pending claims.

With respect to the rejection of claims 1 - 7 and 9 - 14 under 35 U.S.C. §103(a), the Applicants assert Cheung fails to teach or suggest, *inter alia*, wherein the at least one measure includes "removing maximum and minimum figures to produce the quantitative statistic as claimed in the context of monitoring for intentional manipulation and taking measures in response to the detection of intentional manipulation."

Applicants claim monitoring the valuation of a concept for intentional manipulation. Click-screening of Cheung is distinct because the perceived value of an advertisement or listing is not relevant to the process of determining whether a click is chargeable via filtering. Furthermore, Cheung does not teach or suggest a measure to prevent intentional manipulation including the removal of maximum and minimum figures to produce the quantitative statistic, as claimed by Applicants. Therefore, Applicants submit Cheung does not cure the deficiencies noted by the Examiner.

Applicants note the Examiner takes Official Notice "that all of the claimed quantitative statistics were well known in the art at the time the invention was made." The Examiner then concludes "it would have been obvious to one of skill in the art to use quantitative statistics to determine Skinner's search effectiveness" to tailor a bidding decision with a more accurate measure of effectiveness. Applicants respectfully disagree and traverse.

Applicants do not claim quantitative statistics as a concept. In contrast, Applicants claim the application of quantitative statistics to a defined data set involving search

terms and term based concepts. Applicants respectfully request the Examiner appreciate the size and scale of search engines and their respective data sets, as per the standard under §112, ¶1. As understood in the art, operations on large data sets require careful algorithm design and an understanding of computational complexity.

As claimed, the quantitative operations applied to this data set produce at least one of the following results: a total revenue per period calculation; a median revenue per period calculation; an average revenue per period calculation; an average of median bidded price calculation; a median of median clicked price calculation; and a median click calculation. The availability of these results is evidence of careful algorithm design and just one aspect of Applicants inventive technique. Should the Examiner maintain the position of taking Official Notice, Applicants request clarification as to what gaps the Examiner is intending to fill with Official Notice.[1]

In addition, Applicants submit the proposed combinations of the prior art, or any other permutations of the proposed combinations, fail to teach or suggest each and every element as claimed. The dependent claims of the present application contain additional features that further substantially distinguish the claims of the present application over the prior art of record.

[1] Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. The facts so noticed must be of notorious character and serve only to "fill in the gaps" which might exist in the evidentiary showing made by the examiner to support a particular ground of rejection.

For the above reasons, the Applicants submit that the present invention, as claimed, is patentable over the prior art. Accordingly, reconsideration and allowance of all pending claims is respectfully solicited. To expedite prosecution the Examiner is invited to call the Applicants' undersigned representative to discuss any issues relating to this application.

Respectfully submitted,

Dated: January 4, 2010

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